IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 17169 of 2006(R)

PETITIONER:

RAVEENDRAN, AGED 48 YEARS,
S/O UMMUNGAL KRISHNAN, AYAMUKKU DESOM,
CHIRANELLUR VILLAGE, TALAPPILLY TALUK.

BY ADV. SRI.P.VIJAYA BHANU.

RESPONDENT:

MOHANAN, AGED 53 YEARS,
S/O. KUMBIL VELU, MANALI DESOM,
CHIRANELLUR VILLAGE, TALAPPILLY TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR).

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.17169/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 01/10/2005 PASSED BY THE MUNSIFF COURT WADAKKANCHERRY IN E.P. NO.4 53/04 IN O.S. NO. 1/2003.

EXT.P.2: COPY OF THE DRAFT SALE PROCLAMATION IN O.S. 1/2003.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.17169 OF 2006

.....

DATED THIS THE 3RD JULY, 2007

J U D G M E N T

Mr.P.Vijaya Bhanu who used to appear for the petitioner reports that he has relinquished the engagement and that the party has been informed about the same in 2006 itself.

2. I have heard the submissions of Mr.G.Sreekumar Chelur who appears for the respondent-decree-holder.

3. Ext.P1 is the impugned order. Under Ext.P1 the execution court has turned down the petitioner's claim that he is an agriculturist and that his residential building and site is not liable to be sold in execution of the decree under Section 60(1)(c), on the reason that the claim of the petitioner that he is an agriculturist runs contrary to his own admissions in the written statement which are to the effect that he is a shop-keeper purchasing goods worth Rs.5000/- per day as stock-in-trade for his shop. I do not find any infirmity about Ext.P1 warranting interference under the supervisory jurisdiction of this Court. But I notice that the decree-debt as on the date of filing of the Writ Petition is only around Rs.94,000/- and while admitting the Writ Petition and granting stay, this Court imposed a condition that the petitioner pays a sum of Rs.25,000/- within two months from

3.7.2006. Since it is obvious that the petitioner is only seeking time to wipe off the liability, this Writ Petition will stand disposed of issuing the following directions:-

The court below will verify whether the petitioner has complied with the condition imposed by this Court on 3.7.2006 for granting stay. If on verification it is seen that the above condition has been promptly complied with by the petitioner, the court below will hold up execution proceedings for a further period of three more months from today. It is open to the petitioner to avail the period and do the needful to have the decree-debt completely discharged.

(PIUS C.KURIAKOSE, JUDGE)

tgl